

### § 315.3

692.10 of subpart B, part 6, schedule 6, of the Tariff Schedules of the United States (excluding an electric trolley bus and a three-wheeled vehicle) or an automotive truck tractor.

(d) *Bona fide motor-vehicle manufacturer* means a person who upon application to the Under Secretary is determined by the Under Secretary to have produced no fewer than 15 complete motor vehicles in the United States during the 12-month period preceding the date certified in the application, and to have had as of such date installed capacity in the United States to produce 10 or more complete motor vehicles per 40-hour week. A person shall only be regarded as having had the capacity to produce a complete motor vehicle if his operation included the assembly of two or more major components (e.g., the attachment of a body to a chassis) to create a new motor vehicle ready for use.

(e) *Person* includes any individual, corporation, partnership, association, company, or any kind of organization.

(f) *United States* includes only the States, the District of Columbia and Puerto Rico.

[45 FR 42214, June 23, 1980. Redesignated and amended at 53 FR 52115, Dec. 27, 1988]

### § 315.3 Application.

Any person in the United States desiring to be determined a bona fide motor vehicle manufacturer shall apply to the Under Secretary by filing two copies of Form BIE-3 in accordance with the instructions set forth on the form and this part. Application forms may be obtained from the Under Secretary, District offices of the U.S. Department of Commerce, or from U.S. Collectors of Customs, and should be mailed or delivered to the:

U.S. Department of Commerce, International Trade Administration, Office of Automotive Industry Affairs—APTA, 14th and Constitution Avenue, NW., Room 4036, Washington, DC 20230.

[45 FR 42214, June 23, 1980. Redesignated and amended at 53 FR 52115, Dec. 27, 1988]

### § 315.4 Determination by the Under Secretary.

(a) As soon as practicable after receipt of the application, the Under Secretary shall determine whether an ap-

### 15 CFR Ch. III (1–1–05 Edition)

plicant has produced no fewer than 15 complete motor vehicles in the United States during the 12-month period preceding the date certified in the application and as of such date, had installed capacity in the United States to produce 10 or more complete motor vehicles per 40 hour week. The Under Secretary may request such additional data from an applicant as he may deem appropriate to establish whether the applicant has satisfied the requirements of this part.

(b) A determination by the Under Secretary under this part shall be effective for a 12-month period to begin on the date as of which the Under Secretary determines that the applicant qualified under this part. Within 60 days prior to the termination of such period, a bona fide motor vehicle manufacturer may apply for another determination under this part.

(c) The Under Secretary will promptly notify each applicant in writing of the final action taken on his application.

[45 FR 42214, June 23, 1980. Redesignated and amended at 53 FR 52115, Dec. 27, 1988]

### § 315.5 Maintenance and publication of a list of bona fide motor-vehicle manufacturers.

The Under Secretary shall maintain and publish from time to time in the FEDERAL REGISTER, a list of the names and addresses of bona fide motor vehicle manufacturers, and the effective dates from each determination.

[45 FR 42214, June 23, 1980. Redesignated and amended at 53 FR 52115, Dec. 27, 1988]

## PART 325—EXPORT TRADE CERTIFICATES OF REVIEW

Sec.

325.1 Scope.

325.2 Definitions.

325.3 Applying for a certificate of review.

325.4 Calculating time periods.

325.5 Issuing the certificate.

325.6 Publishing notices in the FEDERAL REGISTER.

325.7 Amending the certificate.

325.8 Expediting the certification process.

325.9 Reconsidering an application that has been denied.

325.10 Modifying or revoking a certificate.

325.11 Judicial review.

325.12 Returning the applicant's documents.

- 325.13 Nonadmissibility in evidence.
- 325.14 Submitting reports.
- 325.15 Relinquishing a certificate.
- 325.16 Protecting confidentiality of information.
- 325.17 Waiver.

AUTHORITY: Title III of the Export Trading Company Act, Pub. L. 97-290 (96 Stat. 1240-1245, 15 U.S.C. 4011-4021).

SOURCE: 50 FR 1806, Jan. 11, 1985, unless otherwise noted.

#### § 325.1 Scope.

This part contains regulations for issuing export trade certificates of review under title III of the Export Trading Company Act, Pub. L. 97-290. A holder of a certificate of review and the members named in the certificate will have specific protections from private treble damage actions and government criminal and civil suits under U.S. Federal and State antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions.

#### § 325.2 Definitions.

As used in this part:

- (a) *Act* means title III of Pub. L. 97-290, Export Trade Certificates of Review.
- (b) *Antitrust laws* means the antitrust laws, as the term is defined in the first section of the Clayton Act (15 U.S.C. 12), section 5 of the Federal Trade Commission Act (15 U.S.C. 45) (to the extent that section 5 prohibits unfair methods of competition), and any State antitrust or unfair competition law.
- (c) *Applicant* means the person or persons who submit an application for a certificate.
- (d) *Application* means an application for a certificate to be issued under the Act.
- (e) *Attorney General* means the Attorney General of the United States or his designee.
- (f) *Certificate* means a certificate of review issued pursuant to the Act.
- (g) *Control* means either (1) holding 50 percent or more of the outstanding voting securities of an issuer; or (2) having the contractual power presently to designate a majority of the directors of a corporation, or in the case of an unin-

corporated entity, a majority of the individuals who exercise similar functions.

(h) *Controlling entity* means an entity which directly or indirectly controls a member or applicant, and is not controlled by any other entity.

(i) *Export conduct* means specified export trade activities and methods of operation carried out in specified export trade and export markets.

(j) *Export trade* means trade or commerce in goods, wares, merchandise, or services that are exported, or are in the course of being exported, from the United States or any territory of the United States to any foreign nation.

(k) *Export trade activities* means activities or agreements in the course of export trade.

(l) *Member* means an entity (U.S. or foreign) or a person which is seeking protection under the certificate with the applicant. A member may be a partner in a partnership or a joint venture; a shareholder of a corporation; or a participant in an association, cooperative, or other form of profit or non-profit organization or relationship, by contract or other arrangement.

(m) *Method of operation* means any method by which an applicant or member conducts or proposes to conduct export trade.

(n) *Person* means an individual who is a resident of the United States; a partnership that is created under and exists pursuant to the laws of any State or of the United States; a State or local government entity; a corporation, whether it is organized as a profit or nonprofit corporation, that is created under and exists pursuant to the laws of any State or of the United States; or any association or combination, by contract or other arrangement, between or among such persons.

(o) *Secretary* means the Secretary of Commerce or his designee.

(p) *Services* means intangible economic output, including, but not limited to—

- (1) business, repair, and amusement services,
- (2) management, legal, engineering, architectural, and other professional services, and
- (3) financial, insurance, transportation, informational and any other